

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION

TERRY MAYS

CIVIL ACTION NO. 09-CV-1536

VERSUS

JUDGE S. MAURICE HICKS, JR.

WARDEN, LOUISIANA STATE
PENITENTIARY

MAGISTRATE JUDGE HORNSBY

JUDGMENT

For the reasons assigned in the Report and Recommendation of the Magistrate Judge previously filed herein, and having thoroughly reviewed the record, including the written objections and exhibits¹ filed, and concurring with the findings of the Magistrate Judge under the applicable law;

IT IS ORDERED that the petition for writ of habeas corpus is **denied**.

Rule 11 of the Rules Governing Section 2254 Proceedings for the U.S. District Courts requires the district court to issue or deny a certificate of appealability when it enters a final order adverse to the applicant. The court, after considering the record in this case and the standard set forth in 28 U.S.C. Section 2253, denies a certificate of appealability because the applicant has not made a substantial showing of the denial of a constitutional right.

¹This court makes special note of its review of Exhibit A submitted in petitioner's objections to the Report and Recommendation. Exhibit A does not advance petitioner's claim, as the autopsy report disputed by petitioner was not admitted into evidence and petitioner's counsel was permitted to cross-examine Dr. McCormick. Additionally, petitioner's claims that "but for the constitutional error, no reasonable juror could have found the petitioner guilty" is wholly without merit. There is no dispute in the record that the victim was killed by a shotgun blast to the neck. There has never been an argument at trial or on appeal that there was another cause of death.

THUS DONE AND SIGNED, in Shreveport, Louisiana, this 23 day of August, 2012.



S. MAURICE HICKS, JR.
UNITED STATES DISTRICT JUDGE